

DEFICIENCY PROGRESS REPORT – UPDATE 4

February 4, 2009

CUPA: TRINITY COUNTY CUPA

Evaluation Dates: October 31 and November 1, 2007

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Update 4 Submittal Date: January 14, 2009

Status: Deficiencies 5, 6, 7, 8, and 10 remain outstanding.

Next Progress Report (5th Update) Due: **April 14, 2009**

- 1. Deficiency:** The CUPA is not collecting enough fees from the regulated businesses to cover their expenses. For example, based on their fee accountability, the CUPA had a deficit of approximately \$19,000 in fiscal year (FY) 05/06 and \$6,000 in FY 06/07.

Corrective Action by December 3, 2007: The CUPA is in the process of reviewing their overall program expenses and fees to ensure that their total budget covers their expenses to achieve a stable program. By December 3, 2007, the CUPA will work with Cal/EPA to develop a FY 07/08 single fee schedule.

CUPA Update 1: This deficiency is on track to be corrected this Fiscal Year (FY). The following is a summary of the steps the CUPA has taken:

On November 28, 2007, the CUPA sent an e-mail to Cal/EPA that included itemized CUPA costs and projected revenue for FY 07/08, the CUPA shortfall amounts for FY 05/06 and FY 06/07, and proposed revised CUPA fees for Trinity County. The same day, CUPA and Cal/EPA representatives met by telephone to discuss the fiscal situation. Cal/EPA requested additional information regarding workload analysis and revenue streams. This information was provided to Cal/EPA later that same day. These actions were taken before the deadline of December 3, 2007, given by the initial Cal/EPA Evaluation Summary of Findings for this deficiency.

Cal/EPA deemed these CUPA submittals to be unsatisfactory. On January 16, 2008, the CUPA met with Cal/EPA to discuss Cal/EPA's reviews on the fee proposal. Cal/EPA told the CUPA that the CUPA could not make up the shortfall from FY [05/06] and FY 06/07 by the end of June 2008. Cal/EPA told the CUPA that this shortfall must be spread out over two or three years.

On February 27, 2008, the CUPA met with Cal/EPA with revised CUPA costs and projected revenue for FY 07/08, FY 08/09 and FY 09/10, detailed itemized costs for these FYs, current and proposed CUPA fees, and a summary of fees for county CUPAs

nearby Trinity County. This information showed that the CUPA will reduce work for this fiscal year (FY 07/08) and increase fees and work the following two fiscal years (FY 08/09 and FY 09/10) to balance the CUPA budget.

On March 3, 2008, the CUPA sent Cal/EPA a cover letter with the revised documents they had discussed on February 27, 2008. On March 6, 2008, the CUPA met with the Secretary for Environmental Protection at Cal/EPA, Linda S. Adams. Ms. Adams approved public notice of the proposed fee increase, and the signed notice was sent to the Office of Administrative Law. The Regulations Notice will be published on March 21, 2008, and the comment period will run from March 21, 2008 to April 20, 2008. At the end of the comment period, CUPA staff and Cal/EPA will prepare an expedited response to comments and publish the final fee schedule. Once this is done, the CUPA will issue CUPA invoices for FY 07/08 with the increased fee amount. It is anticipated that this will occur around the middle of May 2008.

Comments to Update 1: *The CUPA has made great progress toward correcting this deficiency. On the next update, due on July 18, 2008, please continue to update Cal/EPA on the CUPA's progress.*

CUPA Update 2: This deficiency is on track to be corrected this fiscal year. On May 2, 2008, the CUPA mailed out the FY 07/08 CUPA invoices. These invoices included the increased fee amounts approved by Cal/EPA. It is anticipated that the CUPA will break even fiscally after it receives the billing payments, the \$60,000 from the Rural Reimbursement Program and the Above Ground Petroleum Storage Act grant of at least \$56,342.14. We will continue to monitor revenue and expenses to make sure program funding is adequate.

Comments to Update 2: *The CUPA continues to make progress toward correcting this deficiency. On the next update, due on October 16, 2008, please update Cal/EPA on the CUPA's progress and continue to monitor revenue and expenses.*

CUPA Update 3: The CUPA believes this deficiency has been corrected, and continues to monitor revenue and expenses. The new fee structure has resulted in increased revenues which should match required expenses in fiscal year 2008/2009.

Comments to Update 3: *The CUPA has satisfactorily corrected this deficiency; no further update is required.*

2. **Deficiency:** The CUPA's FY 05/06 and FY 06/07 Self-Audit Reports were missing a required element. The reports were missing the narrative summary of the effectiveness of activities on permitting.

Corrective Action by October 15, 2008: The CUPA will submit their FY 07/08 Self-Audit Report that contains all the required elements.

CUPA Update 1: The CUPA will begin issuing UST permits in March 2008. The CUPA has developed a standardized format in the Self-Audit Report to include the narrative summary of the effectiveness of activities on permitting, which will help ensure all required information is included. This information will be included in the FY 07/08 and subsequent Self-Audit Reports.

Comments to Update 1: *Cal/EPA appreciates the CUPA's effort in developing a format for its self audit report to include the missing element (permitting). However, this deficiency remains a correction in progress. To encompass all permitting activities, the CUPA is also strongly encouraged to review and continue to follow its consolidated permit policy and procedure (section 7 of the November 2004 Trinity County CUPA application) and the permitting section (15190) of the California Code of Regulations, Title 27. On the next update, due on July 18, 2008, please continue to update Cal/EPA on the CUPA's progress toward correcting this deficiency, including the effectiveness of issuing the (consolidated) permits.*

CUPA Update 2: The CUPA has reviewed the consolidated permit policy and procedure (section 7 of the November 2004 Trinity County CUPA application) and the permitting section (15190) of the California Code of Regulations, Title 27 (27 CCR, section 15190).

The CUPA has not discovered any Trinity County businesses that are subject to the Hazardous Waste Tiered Permitting program. The only permits that the CUPA is issuing are UST permits for the nine active UST facilities and, when needed, one-time permits for UST removal and installation. The State Water Resources Control Board has approved the Trinity County CUPA permit format for the nine active UST facilities. The forms the one-time permits for UST removal and installation are available upon request.

The CUPA has decided that section 7 of the November 2004 Trinity County CUPA application is too complex for the situation that exists in Trinity County. We will be submitting a revised section 7 that simplifies the consolidated permit process and is in compliance with 27 CCR, section 15190.

Comments to Update 2: *This deficiency remains in the process of being corrected. On the next update, due on October 16, 2008, please submit the CUPA's FY 07/08 Self-Audit Report with all the required elements and also the CUPA's revised consolidated permit process, if available.*

CUPA Update 3: The CUPA is enclosing its FY 07/08 Self-Audit Report. It contains all required elements. The CUPA has not completed its revision of its consolidated permit process, but expects to complete this revision during fiscal year 08/09.

Comments to Update 3: *The CUPA has satisfactorily corrected this deficiency; no further update is required.*

- 3. Deficiency:** The CUPA does not have a mechanism to receive comments or feedback from the public or regulated business community, such as a customer service survey form.

Corrective Action by March 20, 2008: The CUPA will develop a survey or questionnaire to obtain feedback or comments from the public and regulated facilities.

The survey or questionnaire should be readily available at the CUPA's office, mailed to the regulated businesses, provided to the regulated businesses at the conclusion of each visitation, outreach or inspection, and/or, if possible, be readily available at Trinity County Environmental Health's office.

CUPA Update 1: The CUPA has developed a Customer Service Survey form. The CUPA will be mailing this form, along with the annual Business Plan Update form, also developed by the CUPA, in March 2008. The Customer Service Survey form will also be mailed to those businesses that are subject to CUPA requirements, but not to the Business Plan requirements, in March 2008. The CUPA will make arrangements for the Trinity County Environmental Health Department to have copies of this survey form available in their office.

Comments to Update 1: *The CUPA has satisfactorily corrected this deficiency. No further update is required.*

- 4. Deficiency:** The CUPA is not fully tracking and reporting violations information and enforcement actions taken on their Annual Enforcement Summary Reports.

Corrective Action by September 30, 2008: By September 30, 2008, the CUPA will ensure that the violations and enforcement data on the Annual Enforcement Summary Report 4 will be complete and as accurate as possible.

CUPA Update 1: The CUPA is now including informal enforcement actions in the tracking of violation and enforcement data. We will include this information in the next Annual Enforcement Summary Report 4 form.

Comments to Update 1: *This deficiency remains outstanding. While the CUPA has begun including informal enforcement actions on their enforcement data tracking system, the CUPA also needs to ensure that all facilities that have been cited for a violation is also included. On the next progress report, due on July 18, 2008, please continue to update Cal/EPA on the CUPA's progress toward correcting this deficiency. Note: the new Annual Enforcement Summary Report form, which is available on the Cal/EPA Unified Program website (<http://www.calepa.ca.gov/CUPA/Publications/>), now requires violations information to be classified (Class I, Class II or Minor) for all Unified Program elements.*

CUPA Update 2: The CUPA has reviewed the new Annual Enforcement Summary Report form. All inspection checklists used by the CUPA now require the classification

of violations as Class I, Class II or Minor. The checklists requiring this classification have been used by CUPA inspectors since May of 2008.

The CUPA has established a tracking system for both inspections and enforcement actions. Each facility inspected is entered into the system. All violations, with their classifications, along with the scheduled return to compliance date and actual return to compliance date are also entered. All enforcement actions, both informal and formal, are also entered into the system. The CUPA is now using this system to follow-up on businesses who fail to return to compliance as directed. A copy of the information to date is available upon request.

Comments to Update 2: *This deficiency is in the process of being corrected. Cal/EPA looks forward to reviewing the CUPA's FY 07/08 Annual Enforcement Summary Report, due on September 30, 2008.*

CUPA Update 3: The CUPA has enclosed a copy of its FY 07/08 Annual Enforcement Summary Report. This report reflects the full tracking and reporting of violation information and enforcement actions taken.

Comments to Update 3: *The CUPA has satisfactorily corrected this deficiency; no further update is required.*

5. **Deficiency:** The CUPA is not inspecting each business plan facility at least once every three years. The Annual Inspection Summary Reports indicate that no business plan facility was inspected in FY 05/06 and FY 06/07. However, the CUPA has made progress; they inspected at least 14% business plan facilities to date for FY 07/08.

Corrective Action: On an annual basis, the CUPA will inspect approximately a third of its business plan facilities. Beginning March 20, 2008, the CUPA will submit a status of their progress, including the number of facilities inspected.

CUPA Update 1: The CUPA has developed an inspection schedule for all Trinity County CUPA businesses currently regulated under one of the CUPA programs, as well as those we expect to complete outreach on. This schedule allows inspection of all business identified as subject to CUPA regulation to be inspected within three years. The CUPA will monitor its success in meeting this schedule to ensure facilities are inspected regularly.

Comments to Update 1: *Based on the CUPA's schedule of inspections, the CUPA has inspected at least 18 percent of its business plan facilities for this fiscal year (07/08) as of March 20, 2008. The CUPA has increased their number of inspections by an additional four percent since the CUPA's evaluation. The CUPA's goal is to inspect at least 10 percent more of its business plan facilities (35 of 126 total) for this fiscal year, 34 percent for FY 08/09, and 35 percent for FY 09/10. The CUPA is strongly encouraged to continue to follow its inspection schedule. On the next progress report, due on July 18, 2008, please continue to update Cal/EPA on the CUPA's progress*

toward correcting this deficiency, including the number of business plan facilities and the number of facilities inspected for routine compliance.

CUPA Update 2: Since March 20, 2008, the date of the CUPA's first proficiency progress report, the CUPA has conducted one business plan inspection. This is below our goal of inspecting 24 by the end of FY 07/08.

As explained in our March 20, 2008 deficiency progress report, we cut back in our CUPA activities and raised CUPA fees in order to bring the CUPA into compliance with the requirement that the CUPA program pay for its own expenses.

We have developed a revised inspection schedule to ensure that all facilities are inspected at least once every three years, except for USTs, which are inspected yearly. Now that the CUPA has revenue from the May 2, 2008 billing, we will be conducting inspections to meet the revised schedule. This will allow the CUPA to inspect all businesses as required.

Comments to Update 2: *Since very little has changed in terms of inspections since the last update, the comments to update #1 still apply. Please continue to report the CUPA's progress towards the revised inspection goals on the next update.*

CUPA Update 3: The CUPA is still working towards inspecting each business plan facility at least once every three years. The CUPA has delayed conducting non-UST inspections during fiscal year 08/09 due to the late state budget. Staff cannot be reimbursed for their travel expenses without a state budget. The CUPA has begun non-UST inspections for fiscal year 08/09, and is scheduling inspections for the remainder of the fiscal year. The CUPA plans to inspect at least on third of all business plan facilities this year, and will try to inspect additional businesses to make up part of the inspection shortfall from fiscal year 07/08.

Comments to Update 3: *Please continue to report the CUPA's progress in the next update, due on January 14, 2009.*

CUPA Update 4: Since the CUPA began doing inspections on September 11, 2007, the CUPA has conducted a total of 46 inspections on businesses subject to business plan requirements. Currently, there are 118 businesses in Trinity County that are subject to business plan requirements. This number does not include the five businesses that have closed. It does include the 19 businesses added since the original Cal/EPA evaluation. The total percent of businesses subject to business plan requirements that have been inspected since inspections began in Trinity County is 35.6% (46/118 x 100).

As mentioned in CUPA Update 3, the CUPA delayed conducting non-UST inspections during fiscal year 08/09 due to the late state budget. Since the state budget was signed, the CUPA has inspected 16 businesses that are subject to business plan requirements.

The CUPA plans to inspect one third of businesses subject to business plan requirements during fiscal year 08/09.

Comments to Update 4: *Cal/EPA and OES appreciate the CUPA's progress. Please continue to report the CUPA's progress on the next update.*

6. **Deficiency:** The CUPA is not requiring businesses, subject to the hazardous materials reporting requirements, to annually submit their hazardous material inventory or certification statement of no change.

Corrective Action by March 20, 2008: By March 20, 2008, the CUPA will develop a strategy and begin implementation of a plan to ensure all regulated businesses annually submit their hazardous material inventory or certification statement.

CUPA Update 1: The CUPA developed an annual Business Plan Update form and will mail it to the regulated CUPA businesses in March 2008. The CUPA is tracking businesses, the dates their annual updates of the chemical inventories and triennial certifications of their entire Business Plan are due and the dates the CUPA will send reminder letters to the businesses. The CUPA plans to mail the Business Plan Update form to regulated businesses 30 days before an update is due.

Comments to Update 1: *This deficiency is in the process of being corrected. On the next update, due on July 18, 2008, please submit the number of businesses that have filed inventory certifications (of "no change") and also the number of businesses that submitted new inventories based on the Business Plan Update forms sent to the facilities since March 2008. Also, please submit a sample of an inventory certification statement of "no change" received from a facility.*

CUPA Update 2: On April 8, 2008, the CUPA mailed out letters with the Business Plan Update form to ninety businesses and received sixty-five responses. [Trinity County has 138 facilities that we think are or have been regulated by one or more CUPA programs. We sent out Business Plan Update forms to 90 of them. We have current Business Plans from twenty-two others. Three others have gone out of business. Of the remaining facilities, we have 17 facilities we will be doing outreach on this year. This is one of our highest priorities. The remaining six are UST facilities who we plan to have update all of their paperwork as we inspect them this year, in order to issue them a UST permit.] We are in the process of following up with those who have not submitted the form. Of the sixty-five responses, six had amended inventory forms and fifty-nine had "no change" in their inventory. We have enclosed a sample of an inventory certification statement of "no change."

Comments to Update 2: *The sample certification form submitted with the update satisfies statutory requirements for annual inventory certification. On the next update, please report your progress with the follow-up of the non-responsive businesses and also a status of the business plan facilities that have yet to be visited.*

CUPA Update 3: The CUPA has followed up on 7 businesses that have failed to submit their update certification form or updated forms. Two of these have closed. One submitted a new business plan, reflecting a change in ownership. One submitted a “no change” certification. Three were confirmed as “no change” through inspections. Failure to submit certifications or updates will also be a prioritization factor for inspection targeting in fiscal year 08/09.

The CUPA has also received seven new sets of CUPA forms and business plans from “newly discovered” CUPA regulated businesses.

Comments to Update 3: *Please continue to report the CUPA's progress in the next update, due on January 14, 2009.*

CUPA Update 4: The CUPA has followed up on the 18 businesses that have failed to submit their update certification form or updated forms. Thirteen of these businesses have submitted their certification forms. The CUPA is working with the remaining five businesses. Some of them are in remote areas that are not always accessible by automotive vehicles and do not always have someone on site. The CUPA will continue to work with these businesses until they have submitted their certification forms.

The CUPA has requested certification forms by letter from an additional 14 businesses. These businesses had a later date on their business plans and were thus contacted later.

Comments to Update 4: *Cal/EPA and OES appreciate the CUPA's progress. Please continue to report the CUPA's progress on the next update.*

7. **Deficiency:** The CUPA is not inspecting each facility that is subject to the California Accidental Release Prevention (CalARP) program at least once every three years. The Annual Inspection Summary Reports indicate that no CalARP facility was inspected in FY 05/06 and FY 06/07. In addition, the CUPA has inspected no CalARP facility to date for FY 07/08.

Corrective Action: By December 31, 2007, the CUPA will develop a strategy and begin implementation of a plan to ensure adherence to the triennial inspection frequency requirement.

Beginning March 20, 2008, the CUPA will submit a status of their progress, including the number of facilities inspected.

CUPA Update 1: The CUPA has developed a strategy and had begun implementation of a plan to ensure adherence to the triennial inspection frequency requirement.

The CUPA will take the following steps in beginning the implementation of the CalARP program:

1. Identify CalARP facilities and verify their regulatory status.
2. Develop a CalARP Registration Form. This has been done.
3. Develop a CalARP Fact Sheet. This has been done.
4. For each CalARP stationary source, make a "Preliminary Risk Determination" as to whether or not the facility poses an accident risk. Based on this determination, the CUPA may require the submittal of the Risk Management Plan (RMP), or exempt the facility from the provisions of the CalARP program.
5. Call in the RMPs after the Preliminary Risk Determination.
6. Conduct the RMP review process.
7. Conduct facility inspections.
8. Conduct facility audits.
9. Maintain close coordination with the facility owner/operator.

The CUPA has not yet inspected a CalARP business. The CUPA has scheduled one CalARP inspection for FY 07/08, two CalARP inspections for FY 08/09, one of which has three stationary sources, and two CalARP inspections for FY 09/10. The CUPA will move up these inspections if resources allow. The CUPA is continuing to research CalARP requirements and has tentatively identified three additional CalARP facilities. The inspection of these additional facilities will be incorporated into the inspection schedule for FY 07/08, FY 08/09 and FY 09/10, as their regulatory status is verified.

Comments to Update 1: *The CUPA has developed a plan to correct this deficiency, including a frequency of inspections for the current fiscal year and the next two fiscal years. However, the CUPA currently continues to identify and verify its CalARP facilities, as well as inspect at least one CalARP facility for this fiscal year. Therefore, this deficiency remains outstanding. On the next update, due on July 18, 2008, please report the CUPA's progress toward implementing its plan.*

CUPA Update 2: We have not been able to make any progress on this deficiency since the last deficiency progress report. This is due to lack of funding. With the new revenue from fee increases, we will be directing resources to this program to ensure that it is up to speed as soon as possible.

Comments to Update 2: *Since very little has changed since the last update, this deficiency remains outstanding. Please report the CUPA's progress or status of implementing its plan to correct this deficiency on the next update.*

CUPA Update 3: The CUPA has developed a draft format for the "CalARP Program Implementation: Inspection & Audit Guidelines" document, which outlines the CalARP Program inspection and audit strategy for Trinity County. It is anticipated that this document will be finalized March 1, 2009.

The CUPA has completed the following steps to implement the CalARP Program:

- Identified CalARP facilities and verified their regulatory status. This has been completed -- there are 7 CalARP stationary sources in Trinity County, all water treatment plants.
- Developed an RMP Submittal Request letter for all CalARP businesses within Trinity County.
- Developed a CalARP Registration Form.
- Developed a CalARP Work Plan Form.
- Developed a CalARP Fact Sheet.
- Develop information on the CalARP Submission Process for CalARP facilities in Trinity County. A draft has been developed and is in the process of being completed. This will be sent out to the identified CalARP facilities, once the CalARP Registration Form and RMP Work Plan are received by the CUPA.

The CUPA plans to send out the CalARP package to all of the identified CalARP facilities in Trinity County by November 30, 2008. This CalARP package will include: "Request for RMP" cover letter; CalARP Registration Form; Basic RMP Work Plan; CalARP Fact Sheet; CalARP List of Chemicals and Threshold Quantities; OES CalARP Program FAQs.

The CUPA has not yet inspected any CalARP businesses, as we are waiting for those facilities to receive the CalARP package in the mail. Once the CUPA has received the completed CalARP Registration Form and Work Plan from the facilities, we will arrange for an introductory meeting with each to discuss measures needed to come into compliance. These introductory meetings may also include a status verification inspection to determine risk, RMP determination, process modifications, etc. Routine inspections, conducted once every 3 years, will begin once these facilities have completed the Formal Public Review. The CUPA will continue to maintain close coordination with these facilities throughout this process.

Comments to Update 3: Please continue to report the CUPA's progress in the next update, due on January 14, 2009. For assistance with training on CalARP inspections, please contact Jack Harrah of OES at (916) 845-8759 or Brian Abeel at (916) 845-8768.

CUPA Update 4: The CUPA mailed a CalARP introductory package to the seven identified CalARP stationary sources in Trinity County on January 12, 2009, containing the following documents:

1. A Letter Requesting the Risk Management Plan (RMP) and CalARP Registration Submittals
2. The CalARP Registration Form
3. CalARP Fact Sheet
4. The OES Fact Sheet - CalARP Frequently Asked Questions
5. The CalARP Regulations, including the List of Regulated Substances (Tables 1, 2, and 3)

The completed Registration Form is due March 12, 2009. After receiving the registration, the CUPA will contact the business to discuss the program. The completed Risk Management Plan is due January 12, 2010.

Comments to Update 4: *Cal/EPA and OES appreciate the CUPA's progress. Please continue to report the CUPA's progress on the next update.*

- 8. Deficiency:** The CUPA has not completed an annual CalARP performance audit.

Corrective Action by July 1, 2008: The CUPA will complete the FY 07/08 CalARP performance audit. Annually thereafter, the CUPA may incorporate the CalARP performance audit with the Unified Program FY 07/08 Self-Audit Report.

CUPA Update 1: The CUPA will complete the FY 07/08 CalARP performance audit by July 1, 2008. The CUPA has developed a standardized format in the Self-Audit Report to include the CalARP performance audit, which will help ensure all required information is included. This information will be included in the FY 07/08 and subsequent Self-Audit Reports.

Comments to Update 1: *The CUPA has incorporated a section for the CalARP performance audit within the annual self audit report. The CUPA must ensure that every element of the California Code of Regulations title 19, section 2780.5 is addressed if the annual self audit is also to serve as a CalARP performance audit. This deficiency will remain outstanding until the next annual submittal of the self audit report.*

CUPA Update 2: The CUPA will ensure that every element of the California Code of Regulations, title 19, section 2780.5, regarding CalARP performance audits, is addressed in the annual self-audit.

Comments to Update 2: *The comments to update #1 still apply. By the next update, please submit the CUPA's annual California Code of Regulations title 27 Self-Audit, which will include the CalARP performance self audit.*

CUPA Update 3: The CUPA is enclosing its FY 07/08 Self-Audit Report. It contains all required elements. The Self-Audit Report does not include the CalARP performance audit, as the CUPA has not implemented the CalARP program to the extent that a performance audit is appropriate.

Comments to Update 3: *Please continue to report the CUPA's progress in the next update, due on January 14, 2009.*

CUPA Update 4: The CUPA has begun to implement the CalARP program. We will detail our progress in implementing the CalARP program in the annual CalARP performance audit. We will submit the annual CalARP performance audit to Cal/EPA as part of the annual required Self Audit.

Comments to Update 4: *This deficiency will be considered corrected pending a review of the CUPA's CalARP performance audit that will be included in the Self-Audit, due by September 30, 2009.*

- 9. Deficiency:** The CUPA has not established a procedure necessary to implement a dispute resolution between the CUPA and stationary sources.

Corrective Action by June 18, 2008: The CUPA will develop a CalARP dispute resolution procedure.

CUPA Update 1: The CUPA has developed a draft CalARP dispute resolution procedure and will be working with the Governor's Office of Emergency Services to ensure that it is complete.

Comments to Update 1: *The draft procedure submitted satisfies the requirements of California Code of Regulations title 19, section 2780.1. Once this procedure has been finalized, this deficiency will be corrected.*

CUPA Update 2: The CUPA has finalized the dispute resolution procedure between the CUPA and stationary sources that was submitted with our first deficiency progress report. It will be implemented with any dispute identified.

Comments to Update 2: *This deficiency has been corrected. No further update is required.*

- 10. Deficiency:** The CUPA is not conducting hazardous waste generator inspections with a frequency consistent with their Inspection and Enforcement Program Plan, which is triennial. The Annual Inspection Summary Reports indicate that no hazardous waste generator facility was inspected in FY 05/06 and FY 06/07. However, the CUPA has shown progress; they inspected at least 16% hazardous waste generator facilities to date for FY 07/08.

Corrective Action: By December 31, 2007, the CUPA will develop a strategy and begin implementation of a plan to ensure adherence to the triennial inspection frequency requirement as noted on their Inspection and Enforcement Program Plan. Beginning March 20, 2008, the CUPA will submit a status of their progress, including the number of facilities inspected.

CUPA Update 1: The CUPA has developed an inspection schedule for all Trinity County businesses, including hazardous waste generators, currently regulated under the CUPA program, as well as those we expect to complete outreach on. This schedule allows inspection of all business identified as subject to CUPA regulation to be inspected within three years.

Comments to Update 1: *The CUPA is in the process of correcting this deficiency. Approximately 18 percent of its hazardous waste generators have been inspected this*

fiscal year (as of March 20, 2008). The CUPA is expected to inspect an additional eight percent to reach its goal of 26 percent for FY 07/08. The CUPA is strongly encouraged to continue to follow its schedule of inspections. On the next progress report, due on July 18, 2008, please update Cal/EPA on the CUPA's progress toward correcting this deficiency.

CUPA Update 2: Since March 20, 2008, the date of the CUPA's first proficiency progress report, the CUPA has conducted two hazardous waste generator inspections. This is below our goal of inspecting five by the end of FY 07/08.

As explained in our March 20, 2008 deficiency progress report, we cut back in our CUPA activities and raised CUPA fees in order to bring the CUPA into compliance with the requirement that the CUPA program pay for its own expenses.

We have developed a revised inspection schedule to ensure that all facilities are inspected at least once every three years, except for USTs, which are inspected yearly. Now that the CUPA has revenue from the May 2, 2008 billing, we will be conducting inspections to meet the revised schedule.

Comments to Update 2: *DTSC acknowledges that the CUPA had to cut back on its CUPA activities. DTSC looks forward to the CUPA meeting its revised inspection goal for FY 08/09 in order to correct this deficiency.*

CUPA Update 3: The CUPA is still working towards inspecting each hazardous waste generator once every three years. The CUPA has delayed conducting non-UST inspections during fiscal year 08/09 due to the late state budget. Staff cannot be reimbursed for their travel expenses without a state budget. The CUPA has begun hazardous waste generator inspections for fiscal year 08/09, and is scheduling inspections for the remainder of the fiscal year. The CUPA plans to inspect at least on third of all hazardous waste generators this year, and will try to inspect additional businesses to make up part of the inspection shortfall from fiscal year 07/08.

Comments to Update 3: *DTSC acknowledges that the CUPA had to cut back on its CUPA activities due to state budget constraints. DTSC looks forward to the CUPA meeting its revised inspection goal for FY 08/09 in order to correct this deficiency. Please continue to report the status of this deficiency in the next progress report.*

CUPA Update 4: Since the CUPA began doing inspections on September 11, 2007, the CUPA has conducted a total of 21 inspections on businesses subject to hazardous waste generator requirements. Currently, there are 55 businesses in Trinity County that are subject to these requirements. This number does not include the five businesses that have closed. It does include the 19 businesses added since the original Cal/EPA evaluation. The total percent of business subject to hazardous waste generator requirements that have been inspected since inspections began in Trinity County is 38.2% (21/55 x 100).

As mentioned in CUPA Update 3, the CUPA delayed conducting non-UST inspections during fiscal year 08/09 due to the late state budget. Since the state budget was signed, the CUPA has inspected 4 businesses that are subject to hazardous waste generator requirements

The CUPA plans to inspect one third of businesses subject to hazardous waste generator requirements during fiscal year 08/09.

Comments to Update 4: *DTSC accept the progress Trinity County CUPA is making towards correcting this deficiency. DTSC looks forward to the CUPA meeting its revised inspection goal for FY 08/09 in order to correct this deficiency. Please continue to report the status of this deficiency in the next progress report.*

- 11. Deficiency:** The CUPA is not implementing their Inspection and Enforcement Program Plan as mandated by law. For example, on one of the nine available files reviewed, the CUPA is not implementing the enforcement process for minor violations that have not been corrected.

Corrective Action: Beginning November 30, 2007, the CUPA will implement the enforcement process as outlined in their Inspection and Enforcement Program Plan.

CUPA Update 1: The CUPA has begun implementing the enforcement process for violations cited during inspections. The CUPA has developed a letter to be sent to businesses who have not submitted the signed Certification of Compliance portion of their inspection report certifying that they have corrected all violations. The CUPA has begun to send this letter to all businesses who have not returned the signed Certification of Compliance portion of their inspection report within the required time.

Comments to Update 1: *The CUPA has satisfactorily corrected this deficiency. No further update is required.*

- 12. Deficiency:** The CUPA is not accurately documenting violations on their inspection reports. On the list of inspections provided by the CUPA, one of the nine hazardous waste generator facilities inspected to date had a Class II violation. However, the Summary of Violations included in the actual facility file did not mention the degree of violation.

Corrective Action: Beginning November 1, 2007, the CUPA will document all violations on their inspection reports.

CUPA Update 1: The CUPA has revised all Business Plan, Hazardous Waste Generator, and CalARP inspection checklists to include a column for indicating that the violation is minor, Class II or Class I. The Underground Storage Tank checklist is being revised and will also have a place on the checklist to indicate the violation classification. The CUPA has developed an inspection protocol which, among other things, addresses the need to classify each violation as minor, Class II or Class I.

Comments to Update 1: *The CUPA is in the process of correcting this deficiency. Although the inspection checklist has been developed, it has not been utilized by the CUPA on any inspections to date. On the next progress report, due on July 18, 2008, please update Cal/EPA and DTSC on the actual usage of this new documentation system.*

CUPA Update 2: Since the last deficiency progress report, the CUPA has inspected businesses using the checklist with a place on the checklist to indicate the violation classification. The CUPA is now classifying violations at the time of the inspection. One of these inspection reports is enclosed for your information.

Comments to Update 2: *DTSC considers this deficiency corrected based on its review of the enclosed report and actual usage of the CUPA's violation documentation system.*

- 13. Deficiency:** The CUPA does not issue Permits to Operate to the Underground Storage Tank (UST) facility owners/operators. This is one of the primary requirements for the UST Program, and the basis by which facilities are allowed to operate. The Permit is based on compliance with paperwork submittals, facility operational compliance, etc.

Corrective Action: By March 20, 2008, the CUPA will develop a permit form and permit conditions with all the required elements and provide to the SWRCB for review. By June 18, 2008, the CUPA will collect current application forms and other required permit paperwork from all facilities. The CUPA will determine compliance and issue operating permits for all compliant UST facilities.

CUPA Update 1: The CUPA has developed a UST permit form and will begin issuing UST permits in March 2008, to those UST businesses that are in compliance with the UST law and regulations.

Comments to Update 1: *The CUPA has satisfactorily corrected this deficiency. No further update is required.*

- 14. Deficiency:** The CUPA has not approved Monitoring/Response Plans or Plot Plans. These are part of the required paperwork submittals for all UST facilities as part of their monitoring program. They should clearly reflect true conditions at the facility and the CUPA needs to ensure that they are complete and fit the situations at the facility. By approving these plans the CUPA accepts the procedures that are proposed for the facility.

Corrective Action: As part of the permitting process (above) the CUPA will review and approve monitoring/response plans and plot plans and provide approval for acceptable monitoring programs. By March 20, 2008, the CUPA will develop a plan/process for approving these items as part of their standard operating procedures.

CUPA Update 1: The CUPA has developed a procedure to review existing Monitoring Plans, Response Plans, and Plot Plans to ensure their completeness and accuracy. The CUPA has begun implementation of this procedure. The CUPA plans to continue implementation of this procedure, as resources allow, until all plans are complete and accurate.

Comments to Update 1: *Cal/EPA and SWRCB appreciate the progress that the CUPA has made toward correcting this deficiency. However, this deficiency remains a correction in progress. On the next update, due on July 18, 2008, please provide a detailed documentation of the procedure. For example, what criteria or elements are examined on the plans, and how the approval will be given to the UST facilities.*

CUPA Update 2: The CUPA has developed a procedure for reviewing Monitoring Plans, Response Plans and Plot Plans to clearly reflect the true conditions at the facility. This procedure also ensures that these plans are complete.

As the FY 08/09 UST inspections are conducted, the inspector will ensure that all of the paperwork, including the Monitoring Plans, Response Plans and Plot Plans are complete and clearly reflect the true conditions at the facility. A UST permit will be issued as soon as all requirements have been met. The CUPA has begun using this review procedure and has begun to issue UST permits to those facilities who meet all of the requirements. A copy of the detailed procedure is enclosed.

Comments to Update 2: *The CUPA has sufficiently corrected this deficiency. No further update required.*

- 15. Deficiency:** Monitoring/Response and Plot Plans do not have all of the required elements. Some of the plans that were submitted were incomplete and/or did not have all of the required elements.

Corrective Action: As part of the permitting process (above) the CUPA will ensure that the submitted plans have all of the required elements, before approving the plan.

CUPA Update 1: The CUPA has developed a procedure to review existing Monitoring Plans, Response Plans, and Plot Plans to ensure their completeness and accuracy. The CUPA has begun implementation of this procedure. The CUPA plans to continue implementation of this procedure, as resources allow, until all plans are complete and accurate.

Comments to Update 1: *Similar to the above (deficiency 14), this deficiency remains a correction in progress. On the next update, due on July 18, 2008, please provide a detailed written procedure.*

CUPA Update 2: The CUPA has developed a procedure for reviewing Monitoring Plans, Response Plans and Plot Plans to ensure that all of the required elements are present. The CUPA inspector will ensure that all requirements are met before a UST

permit is issued. The CUPA has begun to issue UST permits to those facilities that have complete information and meet all regulatory requirements. A copy of the procedure to ensure that all required elements are present in the Monitoring Plans, Response Plans and Plot Plans is enclosed.

Comments to Update 2: *The CUPA has sufficiently corrected this deficiency. No further update required.*